



CITY OF FLOWERY BRANCH
Special Called Work/Voting Session
Meeting Minutes
November 7, 2007, 9:30 am



CALL TO ORDER:

Mayor Hirling called the meeting to order at 9:35 am.

IN ATTENDANCE:

Mayor Diane Hirling, Council Members Jim Herold, Pat Zalewski, Mary Jones, Jan Smith and Allen Bryans. Also in attendance were City Manager Bill Andrew, City Clerk Melissa McCain, City Planner James Riker, and City Attorney Ron Bennett.

PRESENTATION:

Mayor Hirling presented Marta Stephens and Yvonne Barron with a plaque and gift card for their 10 years of service to the City of Flowery Branch.

PUBLIC COMMENTS:

There were no public comments.

UNFINISHED BUSINESS:

There was no unfinished Business.

NEW BUSINESS:

TAD Redevelopment Plan Presentation

This item was postponed to later in the meeting

Agenda Request - Special Use Permit – 5556 Atlanta Highway.

Councilwoman Smith requested that this issue be recorded verbatim.

Pastor Brian Rhodes – 7316 Williams, Flowery Branch, Ga.

Pastor Rhodes –

I am Pastor Rhodes, 7316 Williams Road Flowery Branch Georgia

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Pastor Rhodes passed out a petition requesting the use of 5556 Atlanta Highway as well as a summary of his presentation.

I would like to start by saying thank you to the City Council for allowing us to be here today and thank you for all your time.

I am the Pastor at Lakeland Baptist Church. Just too give you an idea of how long we have been meeting our church started on March 2006 so we are just over 18 months old. As a pastor of a church that is young like this we are currently requesting a temporary special use permit to meet for worship services at 5556 Atlanta Highway Suite 4.

Our greatest desire, as a church, is to have a larger meeting place to express our first amendment freedom of religion. We've out grown our current location on Williams Road in Flowery Branch and my goal as the pastor was to try and stay within 8 miles of our current location based on the desire to reach South Hall County and also with the current members that we have attending not to put a hardship on the people that are already coming that have to drive a longer distance.

It is most noteworthy that the building owner, Mrs. Clarice Bailey, has already agreed to let our church meet in her building. I did get some, just for your references, I did get some feedback from some people that would say just go ahead, since she's let you, agreed to, let you rent the building just go ahead and move in and my desire is, just so everybody, that everyone here hears this, and I guess this is being recorded too, I don't know, my desire was to make, that I do everything decently and in order as far as being a member of the city and a member in good standing with the city as a church. My goal was to come before you all and have everything done in a right fashion and that's why I chose to go about it this way.

The building owner is paying taxes in the City of Flowery Branch on the building.

The property offers 60 or more parking spaces, which according to the 4 per car ratio that's enough for 240 people; we currently have 47 members including kids. Normally we generate 10-20 cars per service typically, maybe a few more for visitors.

We would not be adding any congestion to the area since we only meet on Sunday am/pm and Thursday pm. Those are typically about an hour to an hour and half services per situation.

We have no full time employees at the church and I currently work a full time job at Reliance Electric in Flowery Branch and the building space will not be used by multiple people daily.

Our church members would bring more revenue to the City by using Flowery Branch restaurants, gas stations and the new retail stores that have just come in as well.

We want to stress, I want to personally stress, that our church is not looking to stay in this facility permanently; it will serve as a transition period to help us grow. We will be there on a temporary basis.

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If we are declined the opportunity to meet in this facility it would impose a hardship on our church due to the fact that it is hard to find affordable space that is ready to move into and by that I mean the building facility that is there has already been used for church services for 5 years and in that 5 years the church that was there prior they had done a whole lot of work inside the building to make it fit for a church. The building has been un-rented for over a year now so there it sits and the opportunity for us to come in without it costing us a lot of money would keep us from putting hardship on our church.

No city in Hall County is expected to grow as fast as Flowery Branch. Currently we obviously have around 2,500 people in our city and the projections place the population at over 10,000 in the upcoming years. Obviously with more growth there is a need for more churches.

I would also like to lastly stress the positive impact that our church would have in the community. The church is a place of hope and a bright future. Young and old alike will find encouragement in the church. Churches make the city a better place.

What if I were to tell you this morning there is a well researched and statistically proven program that can increase the average life expectancy of your children by 8 years; a program that significantly reduce their use and risk from alcohol, tobacco and drugs; a program that can dramatically lower the risk of suicide; help kids rebound from depression 70% faster; the program could dramatically reduce the risk for committing crime; it could improve their attitude at school and increase school participation; it could reduce their risk for rebelliousness; it could reduce the likelihood that they would binge drink in college; it would improve their odds for a very happy life; it would also provide them with a life long moral compass; and get them to wear their seatbelts more often.

Is there such a program? Yes there is. The researchers from Duke University, from Indiana University, from The University of Michigan, from The Center for Disease Control, Barna Research Group and the National Institute for Healthcare Research, they have all said that after their research is done there is a program that would do all those things.

My question is to you what would that program be worth to you for our community? What if I told you it was free and only take 2-3 hours a week? It's not a dream. The program is called active church participation.

In study after study children who actively engage in faith community, on a regular basis, are rewarded with significantly reduced likelihood of problems and risks and significantly improved odds of a happier, healthier and longer life. These studies show the same results for adults as well.

We the members of the Lakeland Baptist Church, I brought a few with me and I know they look like they need to be in the detention center, but their all good men, we as members of Lakeland Baptist Church would like to have more space to help the families in South Hall County make these dreams a reality for their own families and we are simply calling on the elected officials of Flowery Branch to partner with us and help these dreams come true.

So my question this morning would be will you please help us by allowing us to meet at 5556 Atlanta Highway Suite 4.

Mayor Hirling – Thank you Pastor Rhodes.

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Pastor Rhodes – Yes Ma’am, thank you.

Mayor Hirling – Council is there any further discussion on this, do we need to discuss this at this time or Mr. Riker would you like to summarize the issues.

Planner Riker – I would like to commend Mr. Rhodes for coming today and speaking to us. He and I have had a couple conversations on the phone and I might reiterate for the Council what I explained to him and that is the Zoning Code right now does not permit churches within the Highway Business District.

The property that Mr. Rhodes is seeking to locate in is in the Highway Business District. As a result there is no such thing as a temporary special use permit that this Zoning Code allows so there is no action or request that you could possibly give him today that would legally allow him to operate in that facility.

What I explained to Mr. Rhodes is that the first step that would have to take place is that the Council would have to either allow him to file a Zoning Code Amendment or initiate one on their own to allow churches as a permitted use within the Highway Business District. Now their option would be one of two ways to handle that, they could allow it as a use permitted by right not requiring a Conditional Use Permit or they could allow it subject to a Conditional Use Permit and what a Conditional Use Permit would do would allow city staff to evaluate a potential impact that a church would have in a Highway Business District. That’s if the Council deemed it appropriate to have churches within the Highway Business District. Those would be the actions that if you wanted to work with Mr. Rhodes would have to occur.

The Council would have to amend the Code to allow such a use to even exist within the Highway Business District. As I explained to Mr. Rhodes, the church that was previously located there appeared to have been done so illegally. The past administration had allowed it to operate. I am not aware of any permits that we have on file for any improvements that would have been done to the facility to allow for a group occupancy to exist at that property. It’s not to say that it’s unsafe but obviously there are two parts to this issue, one issue **is that use appropriate in that zone and then** obviously there are building compliance issues that have to go on to make sure that anytime you have an area of assembly that it’s safe for people to be there. So the real question the Council needs to consider is would you like to either., the applicant, give him direction or consider it yourself to change the code to allow churches within the Highway Business District. I know we have had this conversation before, probably twice I am remembering over the last year on this very issue. So that’s really the starting point is to determine if that’s something you want to consider at this time if it’s not then obviously Mr. Rhodes would have to seek a different site.

I applaud him for trying to take the right approach here. I guess I would say that if there are people in the community advising other citizens to simply locate in buildings and on property that they are not permitted to due they would be breaking numerous laws in doing that and it probably is not good for anybody, if there are people out there giving that advice that is not sound advice at all but I applaud him for coming in today and sharing with us what his concerns are. But those would be the steps the Council needs to take.

Councilwoman Smith – May I ask, can I have the floor?

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Mayor Hirling – Yes

Councilwoman Smith – Which route is the most expedient for them to pursue; I mean your summary of all the things is very good; I would have appreciated having a summary before we had the meeting so that I could have evaluated it, which one would be most expedient for them.

Planner Riker – I think it really starts with whether the Council even wants to consider this.

Councilwoman Smith – Go beyond that; assume the Council does, what would be the most expedient route for them to take of those four options?

Planner Riker – Well, it then starts with the next question does the Council want to allow it as a permitted use by right or subject to Conditional Use Permit. If it were subject to a Conditional Use Permit, if that's what they wanted to put it in the code, then they would have to file such a Conditional Use Permit with all the necessary information, we would have to evaluate that, hold a public hearing and then perhaps act on the Conditional Use Permit then there would be an evaluation of whether the building was suitable for group occupancy based on what improvements exist in the property, how many people would be located inside the facility. There perhaps may have to be substantial modifications to that building to allow groups to meet in there giving, I 'm not sure what their total occupancy request would be so it would be hard for me to say when they would actually be able to open their doors for business because there are a lot of variables that we just are not aware of at this time.

Councilwoman Smith – Well, I have been in that building and it is configured for a church. Since it has been vacant for a year, the actual condition of it I would be unaware of but it is configured to handle quite a large church. The church that occupied that was there legally until we passed the Zoning Ordinance that made it illegal to be there, as I recall. It was there before you ever came to the City. So, that's my recollection anyway.

I also recall this Council refusing to allow the Rock Church, not this Council member, but the rest of the Council members, refused to let the Rock Church occupy a building in the Flowery Branch Technical Center and subsequent to that I believe we passed the Zoning Ordinance that made it prohibited.

I personally would like to see the Council go ahead and approve this even though they denied the Rock Church; I think that was a mistake. I think having a church occupy that building is very suitable and desirable for the City. I would like the Council to consider letting them pursue whatever avenue is most expedient for them.

Planner Riker – I do note there is one point there and that the church, our research revealed, that the church that was located previously in that location was not legally permitted to be there, it was an administrative decision that the past, past, past City Manger allowed to exist there and there didn't appear to be a permitted use by any of the adopted Zoning Codes although it was there for several years.

Mayor Hirling – Would other Council members like to view their opinion?

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Councilwoman Jones – Your right Jan, we did not let the Rock Church go into the Technical Center. I really think there was no parking there, it was not designed for a church, they were going to use it, when we finally got down to the bottom line, it was 5 or 6 nights a week and we couldn't, and they wanted to park on Atlanta Highway to start with and that's not safe.

Councilwoman Smith – I don't recall that at all and there was going to be adequate parking but that's beside the point.

Councilwoman Jones – This might be something we may need to think about or make a decision about today.

Councilman Herold – Well, I think James has said that legally according to our own ordinances we can't do anything today.

Councilwoman Jones – Well I think that's right.

Councilman Herold – That there legally is no way we can legally tell them it's OK, go ahead and rent the place. We can't do that under our existing ordinance. In order to do this we need to change the Ordinance and that is the question before us and that we need to think about and this is a work session and I think we need to think about it whether we want to change the Ordinance to allow churches in Highway Business.

So I don't know that there is anything we can do today and one of the things that Mr. Riker did say is that he mentioned the number of people permitted in the building and that's determined by the Fire Marshall based on whatever criteria the Fire Department has so we don't know how many people will be permitted in the building. Just because it was used in the past for that purpose does not make it proper just because they may have had 300 people in there doesn't make it proper. If the, there are a number of things we need to know before we make up our mind and in any case this would take some time because in order to change an Ordinance it takes some time. For one thing the attorney needs to present us with the changes, we have to have a chance to look at them and we have to vote on them, I think twice. So legally the Council can't do anything.

Councilwoman Smith – I believe Mr. Herold, the Council can do pretty much anything it deems it wants to do.

Councilman Herold – Well see, (Councilwoman Smith began to speak over Councilman Herold)

Councilwoman Smith - And we have voted on one Ordinance one day and had a meeting the next day.

Councilman Herold – I have the floor Ms. Smith, point of order madam, I have the floor.

Councilwoman Smith – I apologize.

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Councilman Herold – The fact of the matter is this is something that I see is going to happen more in the future, that people pick and choose what Ordinances and which laws they want to obey. I for one say, alright I am going to be sitting here for the next month and a half, during that time I advocate that we follow the, our ordinances and follow the rules and I'm not going to let emotion enter into this. As far as I am concerned, if the Council wants to make a change let the attorney present such a change to us at the next Council session, we'll look at it and decide what we want to do. We can either accept or reject the change, is that correct Mr. Riker?

Planner Riker – I think the direction staff would be looking for is if you would like us to do more research on this we would be glad to do that, perhaps prepare a survey of surrounding cities.

Councilman Herold – Well, work with the people trying to get in as a church. We need to know what the condition of the building is whether it, because that is an entirely different matter, we need to know what the occupancy rating is, does it have the proper number of fire exits and so forth and so on.

Planner Riker – I think the real starting point wouldn't necessarily be the building but it would be whether the Council finds that this use is acceptable within the Highway Business District because remember what we would be doing here is changing the Zoning Code to allow churches in all Highway Business Districts, that's what would happen. So I would recommend that if there's information that the Council wants us to look into we would be glad to do that, simply talking about the use issue. The building issue is going to be the building issue no matter what whether it's this building or any other building that's just per the adopted building code and fire code. I think the real starting point here is whether the Council finds this to be an acceptable use in the Highway Business District.

Councilman Herold – At the time of that building that Zoning Code was put in place. I voted for the Zoning Code and I was for that restriction and the reason was I didn't want to remove any of our commercial venues from the area. That I felt a Highway Business was just that a business and church is not a business and that was my opinion then and that is my opinion now. I don't feel like a church is a business and shouldn't be in a Business District.

I yield the floor

Mayor Hirling – Pastor Rhodes it's not like we don't want you in the City of Flowery Branch, we do we just have the issue with the Zoning Ordinance.

Pastor Rhodes – May I make one more statement?

Mayor Hirling – Yes

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Pastor Rhodes – The only other statement I wanted to make that I didn't make that I had on my list, I have looked at the zoning configuration for this city and I have noticed there are really two Zoning Codes that apply to churches and one is Office Professional and the other is Institutional, which states that if its an Institutional Zoning that we could meet in that place or if its Office Professional we could meet in that place. Unfortunately, and I looked at this Zoning Map numerous times now and the Office Professional color is color coded light pink, and there is unfortunately, and I have tried my best to, cuz I see what's happening and I'm looking at this and I'm thinking I don't want people to be divided and try to, me cause trouble for the City but at the same time I have looked at all the Office Professional space available in Flowery Branch and there is none. There is no space for us to look for in an Office Professional setting and for Institutional purposes.

The First Baptist of Flowery Branch has got theirs and the Prince of Peace has got theirs and everything that's zoned Institutional is currently in use. So basically I guess what I am saying is according to the regular zoning, the zoning laws that we have set up now in our City, currently there's no way another church could get in based on the zoning.

Councilman Herold – The owner could always apply to change the zoning. The owner of the property could always apply for a zoning change.

Planner Riker – Certainly that is a possibility. I might clarify too that churches are permitted uses within Agricultural Districts and Residential Districts. There are large Agricultural and Residential Districts here in town, those would be subject to a conditional use permit so although Mr. Rhodes is correct that churches are only permitted in Institutional and Office Professional Zones they are also permitted, subject to a Conditional Use Permit, within Residential Districts and Agricultural Districts so he is not quite telling that part of the requirements as well.

Pastor Rhodes – We are in a Residential District now. We're in a basement the size of this room right here; this is our meeting facility now for 47 members meeting in here, in a room this size.

Thank you again for your consideration.

Councilwoman Smith – Pastor Rhodes I'd like to say I like to apologize on behalf of the Council for our lack of foresight and understanding and accommodation of allowing new churches in the City and I do apologize on my behalf. I am most embarrassed by it and disgusted.

Mayor Hirling – So basically we will do a little more work and research on it.

Planner Riker - I think that was the suggestion we had, if that is the will of the Council I guess my question would be what would you like us to look into, from a land use of what other communities might be doing, how they handle it and Highway Business Districts and if they permit it. Is this the information you would be looking for?

Councilwoman Smith – I think that you could look at Oakwood, there are two churches on Highway Business on Mundy Mill and Atlanta Highway there's Cornerstone Church and Blackshear Church. It's obvious they have on Highway Business, right next door. To have it in a strip mall is not unusual either. And I think we discussed that back at the time we had the Rock Church before us.

Planner Riker – If there is no need to do the research, just let us know what you would like us to do.

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Councilwoman Smith – I'd like to see the Ordinance changed.

Councilman Bryans – How will it affect already established Businesses close to the church, how would this affect them?

Attorney Bennett – It would not affect their alcoholic beverage license if they existed at the time the church came in; of course future business as far as the distance requirements would then be applied once the church is in but existing businesses would be able to retain their alcoholic beverage license or any other ordinance that has distancing requirements.

Clerk McCain – Which I might add I have an application coming in right now from across the street, there is a new owner.

Mayor Hirling – So if the church was there first?

Clerk McCain – If the ordinance is passed and the church goes in prior to me getting all their stuff back then it would not be accepted.

Councilman Herold - In the future it would destroy that business if there was a church there and it changed hands. They couldn't get a liquor license, it the law of unintended consequences. Which is one of the reasons that I think that Highway Business needs to be Highway Business.

Councilwoman Smith – I disagree Mr. Herold

Councilman Herold – I know you do.

Councilwoman Smith – I think the right to worship is a freedom we have in this country over the right to drink alcohol.

Mayor Hirling – Well, we need a consensus from the Council on which way to go. We need opinions on which way to go. We know what Mr. Herold and Mrs. Smith.....

Councilwoman Zalewski – I don't want to see a zoning change.

Councilman Bryans – I am not in favor of zoning changes, you start to make the changes and it just never stops.

Mayor Hirling – Ms. Jones?

Councilwoman Jones – No changes

Mayor Hirling – So that's four no change and one change.

Councilwoman Smith – Is there any other option you would consider?

Councilwoman Zalewski – Talk to the owner about changing their zoning.

Councilwoman Jones – If she would to come by and apply for it I would not have a problem with it.

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Councilman Herold – But it still works out the same way.

Councilwoman Jones – In the end it will but you know that would be a temporary remedy for them because their asking for a temporary service and that would benefit them until they found where there were going.

Councilman Herold – Well whatever, I won't be on the Council when that happens.

Councilwoman Jones – Well it doesn't matter about that Mr. Herold you still live in the community and your still part of the community. If Clarice would be interested in doing that, he has been very honest with us this is going to be a temporary, you know, we all know that that building will never be a quote "church" its not designed for that but if she will come back and ask for a zoning change to make it for a temporary type thing then I don't have a problem with it. I don't think it needs to be there 24 – 7 forever and ever.

Planner Riker – I think what we would recommend to the property owner is that she should consider that and weigh the consequences if you change or perhaps apply for the change to Office Professional that becomes the regulatory district meaning that any future uses, if a zoning change were permitted, would have to comply solely with those permitted with a Office Professional Zone so there would be no, she may essentially create a non conforming use with her other tenants.

This building as you know is a mixed use building that has other tenants, I don't know what implications those have, and I am not familiar with the businesses that are in there that would be something she would have to consider. We also have to consider whether that Office Professional District would be an appropriate designation given that it is surrounded by other Highway Business Districts and that it may very well be more appropriate as an Office Professional but that would be something we consider to avoid and thought of a perhaps spot zoning claim that could be made against the City but that would be something that we would evaluate if such an application were submitted to us for a zoning change.

Councilwoman Jones – Mr. Riker what would happen, for instance to a restaurant, the flea market. Do they fit in that?

Planner Riker – I don't know. We would probably need to get an inventory of the businesses that are there and see if there would be any implications. It could be a situation where some of the businesses that are located now would turn into what would be called a legal non-conforming uses. Meaning that they could always continue to stay but if they went out of operation then they would be discontinued and any use that would come in would have to fit the Office Professional but that is something we can certainly look at if that was the request of the owner. That would at least perhaps lead us to some evaluation of whether the use was acceptable or not. Again then we would get into parking related matters, building issues and things like that so there are a couple, many variables that would go on there to make sure it was safe.

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I guess one of the things for example with parking, We would probably need to get a good understanding of when all the other uses inside that building operated given that the facility has only so many parking spaces. We would have to understand when would the church operate, when would perhaps the fitness center operate, when the offices operate and if it were determined that their peak periods of operation didn't overlap with each other than maybe it could be considered that there is enough parking to support all those uses or perhaps the conclusion that there could potential be an overlap in some of those uses and additional parking spaces would have to be constructed if that's possible, I am not that familiar with the business but I mean those are all issues that would have to be evaluated and considered to make sure it functions the right way but it could be done.

Mayor Hirling – Pastor Rhodes have you sat down with any of our staff to see if there's any other suitable buildings in the City of Flowery Branch?

Pastor Rhodes – No madam just because I have not found anything that is Office Professional so I didn't.

Mayor Hirling – Because Mr. Riker said there is additional zonings that will allow.

Planner Riker – Agricultural and Residential District permitted subject to a Conditional Use Permit. Obviously if you were taking a residential home and converting it to a church or constructing a church you would need to meet parking requirements and you would have the building related issues. I am not sure that this is what this church is looking to do; they have kind of indicated that they are looking for more of a space to rent for a certain given time probably with minimal investment into the property. I would think if they were going to convert a single family home into a church and go through that process, that's probably a pretty costly change that they would have to consider and that may be why those categories don't seem to work for them.

Mayor Hirling – So I am to understand that the best solution at this point would be to ask the owner if she was willing to rezone.

Planner Riker – The owner can take that initiative I guess. I have thrown out some of our concerns and issues that would have to be evaluated and again that's simply gets the use as a permitted use there.

Mayor Hirling - So there is no easy solution.

Planner Riker – No, and it's not to say that the City is trying to be difficult, some of these issues are pure safety issues, pure life safety issues and that is the fact that whenever you have a place of assembly they may have the best intentions of having 20 members, hopefully their service and their parishioners grow and they get a bigger base and perhaps at Easter and Christmas they get more than 20 members and the idea is that when those people are in those buildings their there and their there safely. In the event of an emergency they can get out of those buildings safely. In certain cases where you have a given space with no fixed seating the occupancy numbers can be quite high even though they may not have more than 20 or 30 members today they may have a certain event that would happen there where they could have a lot more then that and in those cases there may have to improvements to the buildings, fire rated walls, sprinkler system, things like that need to be in there for everyone's safety.

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Those are just part of the adopted building code. I am saying these are things that would have to be evaluated and considered and there are good reasons for those for safety purposes.

Mayor Hirling – Any further guidance for us?

Attorney Bennett – I'm sure Mr. Riker just needs direction from the Council and what I am hearing sitting hear is that the Council's desire would be to have Pastor Rhodes contact Ms. Bailey and see if she was interested in filing an application for rezoning that would allow the particular church use that they're interested in using, submit it to Mr. Riker and he will, he and his staff will evaluate and then report to Council.

Mayor Hirling – But with an understanding that it's an absolute not a given. There are other issues too so just because she does come in and ask for it does not mean that she get it.

Planner Riker – Right, even if the zone, the change in zoning designation for that property were permitted there would be another process perhaps that would have to exist. I mean that's just a functional situation in most communities.

Councilwoman Smith – I thoroughly recommend the new Council, we have a new Council member that would be coming on board in January to pursue reevaluating this entire situation. I think it's a very unfortunate message that the City sends to new churches that want to come into our City and we have no way or very few options to accommodate them, and I think that is disgusting for lack of a more decent word.

Mayor Hirling – Pastor Rhodes did you have something to say.

Pastor Rhodes – I just wanted to state that due to the expense that we would incur in the building either us as the renters or Ms. Bailey as the owner, to sprinkle the building, put a fire wall up, to do all these other things to try to bring a building that is grandfathered in up to code for today's standards. I wouldn't ask her to rezone her building so that's not an option to me. Because I consider her, even though I have not rented the space from her, I consider her to be a very gracious lady to even allow us to consider being a renter there so I would rather see her maybe rent the space to someone else because I just don't want to see her incur any expense or I can't afford to spend that kind of money. We were looking to spend \$30,000 just to get the space up to par to move into it ourselves without putting any sprinklers in or anything like that.

I do appreciate your time.

Mayor Hirling – You're Welcome and I hope that maybe there is some space in Flowery Branch that you can find.

Planner Riker – I guess I might mention to, just when we talked about fire rating walls and sprinkler systems I am not saying that that's a requirement I am not familiar with that structure or that space, I am just saying that there are other issues to be considered.

Mayor Hirling – Is there anything further you want to discuss, if not we will move onto the next matter.

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TAD Redevelopment Plan Presentation

Gary Mongeon, Bleakly Advisory Group, presented the Council with a handout and reviewed a draft redevelopment plan.

After the presentation Planner Riker advised that there was a public hearing regarding the Redevelopment Plan November 15, 2007 at 6:00 pm as well as on November 21st, 2007 at 9:30 am with an adoption date of December 5, 2007.

Councilwoman Smith requested that the question and answer portion of the minutes be verbatim.

Question and answer session.

Mayor Hirling – Ms. Smith do you have a question?

Councilwoman Smith – I do have a question. First, I want to commend you on this, this is excellent document and preparation and presentation, I appreciate it very much.

My questions goes back perhaps before you were necessarily involved, but when Mr. Andrew presented this to the Council, we looked basically just at old town being in the TAD and then a few months ago it expanded to include the Halvorsen Project and other areas and now I see its expanded even farther.

I also understand that the TAD itself can not increase taxes; however the consequences of TAD could because the School Board and the County across the board could increase their taxes to meet their needs, budgetary needs, from the loss of TAD revenues throughout the entire county. Is that not correct.

Gary Mongeon – Well, you have to make two assumptions, for the County and the School Board to lose revenue one has to make the assumption first that the development would occur otherwise. Now with the Halverson development you can make that assumption.

With other projects that we talked about within the District, the District is not created, the sewer capacity improvements are not implemented there's an argument to be made overtime that this investment wouldn't occur so there's nothing lost there. That's one argument and that's a debatable argument. If you were to assume that this investment would happen anyway, yes there is a, if this 98 million were to occur it would be taxable, there was TAD the revenues would go to the county and schools, again that that's about a million dollars a year in total revenue which, in the context of Hall County and the School Districts budget, it is not a significant about of money.

Councilwoman Smith – Correct, but until Oakwood, Gainesville, Lula and all them start adopting TADs it could. My main point was, to get to it, it's expanded to include a large potential residential area, I believe when we approached the County and the School Board we really didn't have much residential other than old town, and now I believe this is the Conner Property which is scheduled for housing.

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Gary Mongeon – That is something that you may want to consider as a major PUD parcel, it's easier to put it in there and take it out then have to add new properties within the next thirty days. So your staff thought it would be a good idea to throw it in there, it's up for discussion and it certainly is a reasonable point to debate whether projects, areas of the TAD that are zoned residential primarily single family and are likely to develop for residential you may want to think about if it is appropriate to have those in the TAD. From an incremental perspective and the ability to create more resources for Flowery Branch, that's good. From the perspective of having to negotiate with the County and the School Board that probably would make it more difficult. Whether it's a deal breaker or not I can't tell you. I think you could probably, if the School Board were to raise a concern, and I have no idea how big that project could be or kinds of cost impacts that it would have on the schools, but there have been cases where TAD's have been approved but in Intergovernmental Agreements with School Boards there's an agreement that certain projects that may occur within the TAD's would be exempted. In other words, the School District board would not contribute increment to that project but would contribute increment from taxes on everything else. So that's been done in the past so there's ways around it but I think it's a reasonable public policy issue whether you want to include the boundaries or want the boundaries to include those parcels or not.

Councilwoman Smith – What would they benefit from being in the TAD. I realize how the City benefits but what does that property owner benefit from?

Gary Mongeon – The property owner isn't really affected at all. Only to extent that if the City, the sewer capacity is an issue with that particular property, and I don't know if it is or not...

Councilwoman Smith – It is.

Gary Mongeon – The owner hasn't purchased capacity yet chances are there may not be any development out there. If you don't have the ability to increase your capacity to service new development then the land owner would certainly benefit from being in the TAD. Again it is primarily, it's a source of revenue to the City and I think your challenge here frankly is that believe it or not tax rates here are very low. Property values in Hall County are very low. The current assessed value, new full market value reassessed this year for the Publix Shopping Center is only \$75.00 per square foot. That's like half of what you would see in Atlanta. So this new commercial development, because it is assessed so low on a square foot basis it's not going to contribute nearly as much increment as it would based on the taxation or the assessment practices of other counties.

So those two factors make it extremely difficult to raise lots of money using this source in this location. So that's another consideration on why we made the TAD as big as we did because we need to capture lots of investment.

Councilwoman Smith – There is no comparison to us and Atlanta.

Gary Mongeon – Yeah I know. It's the challenge of making a tool like this work in areas that have lower values; it's just the nature of the beast.

Councilwoman Smith – Another question about the revenues raised from the TAD District, when we get to that point, do they have to be used only for area in the TAD, or can they be used through the City or can they go outside the City.

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Gary Mongeon – When it comes to sewer infrastructure there is a fine line. Technically the law states that any capitol investments made using TAD funds have to be spent within the geography of that District. Now the benefits of that, you build a sewage treatment plant within the TAD certainly the capacity of that plant gets sold all over the place. But infrastructure is an eligible expense. So as long as the plant itself is physically within the boundaries of the TAD I think the benefits of that plant can be sold outside the TAD.

But anything else as far as capitol improvements, if you're going to use it for streets sidewalks, streetscapes or anything about a public improvement nature has to be spent within the physical boundaries of the district and it can only be spent on capitol costs not for operating costs.

Councilwoman Smith – Does our plant need to be expanded if it can only service, lets say its only servicing our City and we develop all this area, does it need to be expanded to 2.5 million gallons or would we have access.

Gary Mongeon – That is a can of worms that I am not qualified to answer. The purpose of this plan is to give you the flexibility, if you decide to make that policy decision and you have to figure out a way to finance it in a manner that has the least impact on your rate payers has the most positive economic impacts on your City. If you decide to make those decisions, taking this action will make that whole process easier. But whether or not, that is policy decision for the City of Flowery Branch. I am not getting paid to answer that question.

Councilwoman Smith – When this Council adopts this, will subsequent Councils be able to amend it or change it or will this be the final document.

Gary Mongeon – You have to recertify it once changes are made. I would definitely recommend that you not do that. You need to have a comfort level with the geography. You can create new TADs in the future. You don't have a lot of flexibility as your percentage is already 8% of the 10%.

You may want to consider is that we do not have the entire geography of old town in the TAD, we have most of it. You may want to just evaluate if we want to do anything south of the railroad, we don't have a lot of property in there so you may want to just think about possibly including some of that real estate as well.

Councilwoman Smith – So you don't have anything south of Atlanta Highway, this map is very small.

Gary Mongeon – Basically everything on this side of the railroad tracks is in it and there's not a lot of property on the other side of the railroad track. I don't know if it's appropriate or not just looking at the values there may be some arguments that we may want to include a little bit more. There's a portion of the Historic District

Councilwoman Smith – I was going to say you have the Historic District listed.

Gary Mongeon – There is a portion of that Historic District that is not in the TAD, probably 10 -12 parcels out of all the Historic District, there is probably only 10 or 12 that are outside the boundaries of the TAD today. We might want to consider adding those to keep it consistent.

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Councilwoman Smith – That does seem to be discriminatory if we do not include them.

Gary Mongeon – Again, from a property owners perspective its fairly irrelevant, its just looking 20 years down the road in the future if your thinking about public improvements or streetscapes, anything of that nature, you may want to use this as a financing source, you just want to give yourselves the flexibility.

Councilwoman Smith – Well it is a significant area of the main part of this City and to have one side of Atlanta Highway being able to be developed and upgraded and the other side not, doesn't seem to be very logical action to take in my opinion.

Gary Mongeon – There are arguments both ways.

Councilwoman Smith – What is the other argument?

Gary Mongeon – Well, the other thing you want to do as well is when drawing your boundaries you want to leave some areas outside the boundary of the TAD, again the economic benefits, if there is a major investment somewhere in the Village that changes the character of the Village, creates new housing down here, creates investment opportunities what we found often times communities see as much improvements outside the boundaries of the TAD, on the periphery of the TAD, that again don't go into the special fund and benefit the general fund. You want to retain some flexibility so that the benefits of what your doing also benefit the general fund. The other argument is that you are butting up to the 10% limit and you have to stop somewhere.

Again that was just a judgment call to use the railroad tracks as the southern boundary of the district. Adding 20 or 30 more parcels at this time is insignificant.

City Manager Andrew – Can I address some of the questions you had Jan?

Councilwoman Smith – Yes

Manager Andrew – The inclusion of Stonebridge Village was an issue that we learned of, I guess early on, I guess when James and I first met with Ken Bleakly he had mentioned that as a real possibility several months ago. We had had concerns about doing it because of the fact it might effect the schools being able to grab that increment, but the thing to remember is a couple issues, one is the schools and the county will both be receiving the sales tax from that development so they will be getting that very large amount of revenue from that development regardless.

The other issue that I think we have to think about the fact that the more money that we can grab from that, the more money that we can invest into that area specifically for sewer in the sense that the Forbes site is the 84 acres on this side of interstate it has a draft plan for over a million square feet under roof only. It has 35,000 gallons of sewer pledged for it but it may not be enough. The Crow Property in this area has no sewer pledged for it. So we feel that by Stonebridge giving us that increment to create a better ability to provide sewer for that district we would actually be increasing the sales and increasing sales at the Stonebridge site by allowing more synergy to occur around it.

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We also have some improvements for Thurmond Tanner Road. Whether we will be paying for that is unknown this may allow us to shoulder some of it. In the end the School Board may lose on one side but they gain on the other from a more efficient flow of traffic, more people coming to Stonebridge and more development occurring around that district.

In terms of the Conner Property, I was concerned for the very point you made, how I sort of tipped the balance on that is that that area is already zoned for development that could legally occur today with a new buyer. The zoning is there now and this TAD is not creating this development, this development already exists on paper. It is correct to know that this TAD will eventually be creating the sewer capacity that will allow for the full build up of that site. But the site in terms of zoning exists today. We have talked about creating sidewalks and walking paths with "Safe Routes to School" funding to get kids going from the elementary school to that site. That would be a joint way of working with the schools on that applications to use some of these funds to help match that grant so that would be some way of them see some direct benefit of these TAD funds.

Councilwoman Smith – I am not opposed really to the TAD including the Conner Property because the property does not have sewer, I was just more concerned about the impact on the School District when we had told them that we weren't including any major housing areas.

City Manager Andrew – Well what we had told them is that we weren't including any areas, doesn't in other words the TAD by itself is not creating new residential. The TAD whether the Conner Property is in it or not, doesn't change the development of the property.

Councilwoman Smith – Yeah, right. Well, no it's not creating new residential but the increment is taken away from them and they are going to incur more cost to educate those children.

Gary Mongeon – We do have precedent between the City of Woodstock and the Cherokee County School District and that was a similar situation it is very comparable to this one in terms of the nature of that TAD and it was a mixed use area including some commercial and residential. They specifically had an intergovernmental agreement between the City and the school system and it was agreed that the school would pledge its increment to all the commercial development within the mixed use development that had very few school kids. There was one component of the TAD that involved a PUD that had lots of single family homes in it, it was agreed that the schools increment would not be applied in that specific project. So the General fund got property taxes from that portion of the TAD, or will get it when it's developed.

So there is precedent, it can be done if it becomes an issue. It is certainly legally, the grounds have been plowed and we have that language as our firm was involved in those negotiations, if it comes up.

Councilwoman Jan Smith – I am concerned about the area south of the railroad tracks just because of certain individuals that own property. Sitting on this Council I do not want to be, if I vote for this boundary, I don't want to be accused by those individuals of having a personal bias against them so I would like to see that strip for that reason alone, while that might be a personal one but certainly there is a lot of history with all the Council and individuals that own that land.

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Gary Mongeon – We would be happy to look at that and at least get the values together for those properties and we'll be able to report what the impact would be if you decide to make that decision, you'll have that information available to you in advance of making that decision.

Planner Riker – There was one other comment on the Conner Property and I know we passed it and that was one of the arguments was that as you know a component of that project was suppose to be 55 and older and would not produce any school aged children and so we thought it might be appropriate to at least have dialog with the School Board when we got to discussing that property that there would be a portion of that project that would not be able to generate school aged kids.

Gary Mongeon – Thank you very much.

[Resolution 07-024 – 06/07 Budget Amendments](#)

Attorney Bennett read Resolution 07-024

There was a motion made to approve resolution 07-024 as presented.

MOTION: Jim Herold
SECOND: Mary Jones
AYES: Mary Jones, Pat Zalewski, Allen Bryans, Jim Herold and Jan Smith.
NAYES: None
Motion carried.

[Agreement – Georgia Water/Wastewater Agency Response Network](#)

City Manager Andrew reviewed the agreement for emergency mutual aid.

There was a motion made to approve the Georgia Water/Wastewater Agency Response Network Agreement and authorize the Mayor to execute said document.

MOTION: Allen Bryans
SECOND: Pat Zalewski
AYES: Mary Jones, Pat Zalewski, Allen Bryans, Jim Herold and Jan Smith.
NAYES: None
Motion carried

[5509 Lease Agreement](#)

City Manager Andrew summarized the lease terms and conditions. There is an understanding that the owner Mr. Malcolm will be installing an awning, flooring and painting with improvements also occurring to the rear of the building.

Councilman Herold suggested that this item be postponed until the November 21, 2007 Council Meeting as there are some corrections that need to be made.

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There was a motion made to postpone the vote and review of the lease agreement until November 21, 2007 at 9:30 am.

MOTION: Jim Herold
SECOND: Allen Bryans
AYES: Mary Jones, Pat Zalewski, Allen Bryans, Jim Herold and Jan Smith.
NAYES: None
Motion carried

CITY MANAGER REPORT:

Engineering Report Infrastructure Update

Mr. Bob Troxler gave a detail account of the status of the City's infrastructure and reviewed a handout of such details.

Drought Information

City Manager Andrew advised that the State has requested that all cities reduce water consumption by 10%. Currently the City has no mechanism in place for the fining of individuals that do not comply with the water restriction. Because the City is not making an effort to reduce water usage the city may be fined if the 10% reduction in use has not been met.

Continuing, Manager Andrew advised that currently the City of Gainesville charges \$50.00 for the first offence, \$200.00 for the second offence and water disconnection for a subsequent offence.

There was a consensus of the Council to direct staff to create a mechanism similar to the City of Gainesville for the enforcement of the water ban.

CLERK REPORT:

Garbage Cans

City Clerk McCain advised that a gentleman requested that it be considered to give a credit to garbage customers that have had to purchase a can within the last few months from Red Oak Sanitation. The concern was that the fee of \$65.00 was collected and shortly after the contract was changed and cans were provided to customers without a charge.

Clerk McCain further advised that the credit, if granted, would come from the City when the City originally did not receive the monies for the cans. The fees were paid directly to Red Oak Sanitation.

There was no Council comment at this time.

Canned Food Drive 12th-16th

Clerk McCain advised the Council that the City was working with Red Oak Sanitation to fill two garbage cans with canned food to be donated to the Chattahoochee Baptist Association Food Bank. Please donate to those less fortunate.

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ATTORNEY REPORT:

No report.

PLANNING, ZONING REPORT:

Planner Riker reviewed the status of Stonebridge Village as well as the TE Grant.

COUNCIL REPORT:

No report

EXECUTIVE SESSION

There was a motion made to enter Executive Session at 12:26 pm for the purpose of Land Acquisition.

MOTION: Jim Herold
SECOND: Mary Jones
AYES: Mary Jones, Pat Zalewski, Allen Bryans, Jim Herold and Jan Smith.
NAYES: None
Motion carried.

OPEN SESSION:

There was a motion made to exit Executive Session and reconvene Open Session at 1:03 pm.

MOTION: Jim Herold
SECOND: Jan Smith
AYES: Mary Jones, Pat Zalewski, Allen Bryans, Jim Herold and Jan Smith.
NAYES: None
Motion carried.

ADJOURNMENT:

There was a motion made to adjourn the November 7, 2007 meeting at 1:05 pm.

MOTION: Mary Jones
SECOND: Jim Herold
AYES: Mary Jones, Pat Zalewski, Allen Bryans, Jim Herold and Jan Smith.
NAYES: None
Motion carried.

Diane Hirling – Mayor

Date

City Clerk – Melissa McCain

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